

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DWIGHT MARSHON WHITE,

Plaintiff(s),

v.

CAROLYN W. COLVIN,

Defendant(s).

Case No. 2:15-CV-1587 JCM (NJK)

ORDER

Presently before the court is plaintiff Dwight White's motion to reconsider. (ECF No. 34). Defendant the Commissioner of the Social Security Administration (the "commissioner") has not filed a response and the time to do so has passed.

On September 8, 2016, Magistrate Nancy Koppe entered an order to show cause directing plaintiff to show cause in writing why the court should not (1) vacate the order granting his application to appear in forma pauperis, and (2) either require plaintiff to pay the filing fee or dismiss this case. (ECF No. 31). On September 14, 2016, plaintiff responded. (ECF No. 32).

On September 15, 2016, the magistrate entered an order revoking plaintiff's *in forma pauperis* status and finding that plaintiff must pay the full filing fee and expenses incurred in effectuating process on his behalf no later than October 6, 2016. (ECF No. 33).

In the September 15th order, the magistrate found that plaintiff sought *in forma pauperis* status in a prior case attempting to appeal the adverse social security determination that was also at issue in the present case, that request was denied, and judgment was entered against plaintiff when he failed to pay the filing fee. (ECF No. 33 at 1). The magistrate further found that plaintiff could not proceed in the present social security appeal *in forma pauperis* when plaintiff's prior case was dismissed and judgment was entered because he failed to pay the filing fee. (ECF No.

33 at 1). Accordingly, the magistrate held that plaintiff could not relitigate that issue through the filing of a new *in forma pauperis* application and that the application in this case should have been denied as moot. (ECF No. 33 at 1–2).

Further, the magistrate ordered plaintiff to pay the filing fee and fee for service in the total amount of \$416.00 no later than October 6, 2016. (ECF No. 33 at 2). The magistrate cautioned that failure to comply would result in a recommendation of dismissal. (ECF No. 33 at 2).

Rather than complying, plaintiff filed the instant motion seeking reconsideration of the magistrate’s order. (ECF No. 34). In his motion, plaintiff argues that his debts and expenses changed since the first application, “which effected his ability to pre pay the court fees in this case.” (ECF No. 34 at 5).

A motion for reconsideration “should not be granted, absent highly unusual circumstances.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); Fed. R. Civ. P. 60(b). “A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e).

Rule 59(e) “permits a district court to reconsider and amend a previous order,” however “the rule offers an extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (internal quotations omitted). A motion for reconsideration “may not be used to raise arguments . . . for the first time when they could reasonably have been raised earlier in litigation.” *Kona Enters., Inc.*, 229 F.3d at 890.

Based on the foregoing, the court finds that plaintiff failed to show that “highly unusual circumstances” are present to warrant reconsideration. *See School Dist. No. 1J*, 5 F.3d at 1263.

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IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff's motion to reconsider (ECF No. 34) be, and the same hereby is, DENIED.

IT IS FURTHER ORDERED that plaintiff has seven (7) days from the date of this order to pay the filing fee and fee for process in the total amount of \$416.00.

DATED October 11, 2016.

James C. Mahan  
UNITED STATES DISTRICT JUDGE